

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CREDIT AGRICOLE CORPORATE AND :  
INVESTMENT BANK NEW YORK BRANCH, f/k/a :  
CALYON NEW YORK BRANCH, *et al.* :

11 Civ.

Plaintiffs,

-against-

BDC FINANCE, L.L.C., *et al.*

JUDGE JONES

Defendants.

11 CIV 4990

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BLACK DIAMOND CAPITAL MANAGEMENT, :  
L.L.C., *et al.* :

Counterclaim-Plaintiffs,

-against-

CREDIT AGRICOLE CORPORATE AND :  
INVESTMENT BANK NEW YORK BRANCH, f/k/a :  
CALYON NEW YORK BRANCH, *et al.* :

Counterclaim-Defendants.

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**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1334, 1446 and 1452 and Federal Rule of Bankruptcy Procedure 9027, Black Diamond Capital Management L.L.C., BDC Finance L.L.C., Black Diamond-CLO-2006-1 (Cayman) Ltd., Black Diamond Commercial Finance, L.L.C. and GSC Acquisition Partners, L.L.C. (collectively, "Defendants") hereby remove Count IX of the Amended Complaint filed in the above-captioned civil action from the

Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York, and state as follows:

1. Plaintiffs purported to commence the above-captioned action on November 13, 2010 against Defendants in the Supreme Court of the State of New York-New York County, Index No. 651989/2010, with the filing of a Summons with Notice, attached hereto as Exhibit A.
2. Plaintiffs filed a Complaint seeking declaratory relief against Defendants on May 17, 2011, attached hereto as Exhibit B.
3. On July 20, 2011, Plaintiffs filed a motion for leave to file an Amended Complaint. Attached hereto as Exhibit C is the Amended Complaint. The Amended Complaint asserts certain causes of action that were not included in the original Complaint or mentioned in the Summons with Notice. Such causes of action include Count IX which seeks an injunction against Defendants that would modify and impede a sale transaction authorized and approved under Section 363 of the U.S. Bankruptcy Code by order of the U.S. Bankruptcy Court for the Southern District of New York in the bankruptcy case styled *In re GSC Group, Inc., et al.*, Case No. 10-14653. Count IX seeks to impose conditions upon the closing of that transaction that are inconsistent with and contradict the terms of the Bankruptcy Court's sale order.
4. Concurrently with their motion for leave to file the Amended Complaint, Plaintiffs also filed an Order to Show Cause seeking a temporary restraining order and preliminary injunction pursuant to Count IX. A copy of the Order to Show Cause is attached hereto as Exhibit D.
5. Pursuant to 28 U.S.C. § 1334(b), this Court has original jurisdiction over Count IX and any related attempt to seek the requested temporary or permanent injunctive relief

because such matters arise under, arise in and/or relate to a bankruptcy proceeding under title 11 of the U.S. Code. Accordingly, Count IX may be removed to this Court pursuant to 28 U.S.C. § 1452(a).

6. Count IX is a core proceeding pursuant to 28 U.S.C. § 157(b).
7. This notice is being filed within 30 days of receipt of the Amended Complaint containing Count IX.
8. Defendants will promptly serve a copy of this Notice on counsel for Defendants and will file a copy of this Notice with the Clerk of the Supreme Court of the State of New York, New York County.

WHEREFORE, Defendants, under 28 U.S.C. §§ 1334, 1452(a), 1446 and Bankruptcy Rule 9027, remove Count IX of the Amended Complaint from the Supreme Court of the State of New York, New York County to this Court.

DATED: New York, New York  
July 20, 2011

RICHARDS, KIBBE & ORBE LLP

By: \_\_\_\_\_  
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L.L.C. and GSC Acquisition Partners, L.L.C.*